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RECENT IMPORTANT DECISIONS

ADVERSE POSSESSION—MISTAKE.—From a decree quieting in plaintiff title by adverse possession, defendants appealed, contending that plaintiff claimed the land only under and by virtue of a will which in fact conferred no legal title, and that such a claim was not adverse. *Held*, assuming that plaintiff believed he was asserting legal rights only, and that his claim of title was defective, his possession would nevertheless ripen into title by adverse possession. *Erickson v. Crosby*, (Neb. 1916) 160 N. W. 94.

Slightly different facts raised a somewhat similar question in another jurisdiction. In a suit to quiet title, plaintiff sought to show that he and his predecessor had held the land adversely for the statutory period. It appeared that plaintiff's grantor had occupied the land in question under a mistake as to his true boundary line. *Held*, one who by mistake as to the true line occupies beyond it, claiming a right only to the true line, does not occupy adversely to the actual owner. *Jahnke v. Seydel*, (Ia. 1916) 159 N. W. 986.

The courts do not differ as to the elements necessary to render the claim and possession of land adverse to the true owner. Theoretically the occupant must claim the land as his own in either jurisdiction. Where a mistake is shown, the question becomes a hypothetical one. Would the occupant have held the land as his own if he had known that his legal claim to it was without foundation? The Nebraska court presumes the affirmative of this proposition; the Iowa court, the negative. The particular presumption adopted, although rebuttable, invariably controls the decision. The great weight of authority supports the rule applied in Nebraska. The recent case of *Janke v. McMahon*, 21 Calif. App. 781, 133 Pac. 21, accords with the Iowa case. For other cases, and an analysis of the question, see 11 MICH. L. REV. 57.

ANNULLMENT OF MARRIAGE—INHERENT POWERS OF EQUITY TO GRANT.—The defendant had been divorced from a former husband on the grounds of adultery, the statute providing that the guilty party should not marry again during the life of the other party without the consent of the court given under certain conditions, and such remarriage should be absolutely void. The defendant married the plaintiff without the consent of the court. Upon discovery of the facts above the husband, the plaintiff, sued for annulment. *Held*, that the marriage should be annulled. *Roth v. Roth* (1916), 161 N. Y. Supp. 99.

The case raises the interesting question whether a court of equity has inherent power to annul a marriage which is absolutely void under the statute. The court says that it has, but prefers to base its holding upon the statutory ground of fraud, which existed in this case. *Peugnet v. Phelps*, 48 Barb. 566, under facts practically identical with those in the principal case, except that the husband in that case knew of his wife's statutory disability before marriage holds that the court had no inherent power to annul